

State of California
BOARD OF EQUALIZATION

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

Regulation 4607. DETERMINATION OF FINE.

Reference: Sections 22973, subdivision (5), 22974, 22974.3, subdivision (a), 22974.3, subdivision (b), 22974.7, 22977, subdivision (a)(5), 22978.1, 22978.2, subdivision (a), 22978.2, subdivision (b), 22978.4, subdivision (c), 22978.5, subdivision (b), 22978.7, 22979, subdivision (b)(1), 22979.4, 22979.5, subdivision (b), 22979.6, subdivision (c), 22979.7, 22980, subdivision (b), 22980.1, 22980.2, subdivision (a), Business and Professions Code.

(a) The fine for Business and Professions Code section 22974.5 (retailer's failure to display a license) is \$500.

(b) The fine for all other violations of the Act shall be determined as follows:

(1) Any second or subsequent offense of a violation of any of the following provisions shall result in a fine of \$1,000:

(A) Business and Professions Code section 22973, subdivision (a)(5) (retailer's false statement on application).

(B) Business and Professions Code section 22977, subdivision (a)(5) (distributor's or wholesaler's false statement on application).

(C) Business and Professions Code section 22979, subdivision (b)(1) (participating manufacturer's false statement on certification to the Board).

(2) A second offense of a violation of any of the following provisions shall result in a \$1,000 fine, and each subsequent offense shall increase the fine by an increment of \$1,000, up to a maximum fine of \$5,000:

(A) Business and Professions Code section 22974 (retailer's failure to retain purchase invoices).

(B) Business and Professions Code section 22974.3, subdivision (b) (retailer's sale or possession of untaxed tobacco products).

(C) Business and Professions Code section 22978.1 (distributor's or wholesaler's failure to retain purchase invoices).

(D) Business and Professions Code section 22978.2, subdivision (b) (distributor's or wholesaler's sale or possession of untaxed tobacco products).

(E) Business and Professions Code section 22978.4, subdivision (c) (distributor's or wholesaler's failure to comply with invoice requirements).

(F) Business and Professions Code section 22978.5, subdivision (b) (distributor's or wholesaler's failure to retain sales records).

(G) Business and Professions Code section 22979.4 (importer's failure to retain purchase invoices on premises).

(H) Business and Professions Code section 22979.5, subdivision (b) (manufacturer's or importer's failure to retain sales records on premises).

(I) Business and Professions Code section 22979.6, subdivision (c) (manufacturer's or importer's failure to comply with invoice requirements).

(J) Business and Professions Code section 22980, subdivision (b) (any person's refusal to allow inspection).

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(K) Business and Professions Code sections 22980.1, subdivisions (a), (b), (c), (d), (e), (f), and (g) (sales or purchases of cigarettes or tobacco products to or from an unlicensed person or person with suspended or revoked license).

(L) Business and Professions Code section 22980.2, subdivision (a) (sales of cigarettes or tobacco products by unlicensed person or person with suspended or revoked license).

(3) A second offense of any of the following provisions shall result in a \$2,000 fine, and each subsequent offense shall increase the fine by \$1,000, up to a maximum of \$5,000 per offense:

(A) Business and Professions Code section 22974.3, subdivision (a)(2) (second seizure from retailer within five years of less than 20 packs of untaxed cigarettes).

(B) Business and Professions Code section 22978.2, subdivision (a)(2) (second seizure from a distributor or wholesaler within five years of less than 20 packs of untaxed cigarettes).

(4) A second offense of any of the following provisions shall result in a fine of \$5,000 or five times the retail value of any cigarettes or tobacco products seized, whichever is greater, and the \$5,000 fine shall be increased to \$10,000 for the third offense, \$15,000 for the fourth offense, \$20,000 for the fifth offense, and \$50,000 for the sixth and subsequent offenses:

(A) Business and Professions Code section 22974.3, subdivision (a)(4) (second seizure within five years from retailer or any other person of 20 or more packs of untaxed cigarettes).

(B) Business and Professions Code section 22978.2, subdivision (a)(4) (second seizure within five years from a distributor or wholesaler of 20 or more packs of untaxed cigarettes).

(5) Fines are reduced by the amount of any fine imposed as a result of a misdemeanor citation issued for the same violation of the Act.

History: Adopted December 12, 2006, effective April 21, 2007.